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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

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SUMMARY RECORD OF THE 1314th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 8 March 1999, at 10 a.m.

Chairman: Mr. ABOUL-NASR

later: Mr. YUTZIS

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The meeting was called to order at 10.05 a.m.

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING MEASURES AND URGENT ACTION PROCEDURES (agenda item 3) (continued)

The situation in the Federal Republic of Yugoslavia (CERD/C/364; the Committee's decision 3 (53))

1. At the invitation of the Chairman, Mrs. Boskovic-Prodanovic (Yugoslavia), Mr. Djordjevic, Mrs. Nikolic, Mr. Ristic and Mrs. Scepanovic took places at the Committee table.

2. The CHAIRMAN welcomed the Yugoslav delegation and invited it to provide the additional information concerning Kosovo and Metohija requested by the Committee in decision 3 (53) which it adopted on 17 August 1998 (A/53/18, para. 22).

3. Mr. HODZA thanked the Committee for inviting his delegation to the present session of the Committee and emphasized the importance that his Government attached to the quest for a peaceful political solution to the problem of Kosovo and Metohija based on respect for the sovereignty and territorial integrity of all the communities living in that territory. He also reaffirmed his Government's desire to honour its commitments, particularly in the field of human rights, and to cooperate with the Committee.

4. The Federal Republic of Yugoslavia was a multi-ethnic, multilingual and multiconfessional country. Twenty-six national minorities and ethnic groups were living together in its territory. In spite of the obstacles with which it was faced (civil war in neighbouring countries, presence of refugees, international sanctions), Yugoslavia was endeavouring to apply the principles set forth in the various international instruments to which it was a party.

5. The Yugoslav Constitution guaranteed protection of the civil, political, economic, social and cultural rights of all citizens, including ethnic minorities, without any discrimination. Moreover, in December 1998, Yugoslavia had ratified the Council of Europe's Framework Convention for the Protection of National Minorities, thereby manifesting its commitment to respect the highest international standards in that field.

6. The Government's desire to guarantee the same rights to all was manifested at various levels. In the field of freedom of movement, for example, 22 per cent of the travel documents had been issued to citizens of Kosovo and Metohija and, in the field of education, instruction was provided in the mother tongue of the populations concerned. With regard to freedom of the press, public information, whether in the form of publications or television programmes, was disseminated in the language of the national minorities (Serbian, Albanian, Romany and Turkish) and, in the field of health, all citizens of Kosovo and Metohija enjoyed health care and had access to the services provided in public institutions or by private practitioners, some of whom were Albanian. Finally, with regard to religious confession, the State also guaranteed respect for the beliefs of every individual.

7. However, the Government's efforts were being impeded by the Albanian separatists who were imposing their will on the population. That was the case, for example, in the education sector where members of the Albanian minority were abandoning the official school curriculum out of fear of reprisals. The Albanian separatists were also taking advantage of the freedom of the press in order to incite inter-ethnic hatred and attempt to overthrow the constitutional order.

8. It should be noted, therefore, that some members of the Albanian community were seeking neither cooperation nor dialogue. They had joined the rebellion and were committing terrorist acts with a view to the establishment of a "Greater Albania". To that end, they were violating the provisions of the Convention, murdering, abducting, expelling and ill-treating persons and destroying their property. Although they did not constitute the majority of the Albanian community in Kosovo and Metohija, they were bringing pressure to bear on that community. It was for that reason, and not because the Government was persecuting them, that some members of that community were deprived of their rights and freedoms. The police operations were merely a response to the terrorist acts and were intended to protect citizens.

9. There had been a notable upsurge in the activities of the Albanian separatists with a view to obtaining the secession of Kosovo and Metohija from Yugoslavia. They were targeting civilians of all ethnic origins in addition to policemen, clergymen, journalists, members of humanitarian missions and diplomats.

10. He drew special attention to the fate of children in that context. He denounced, in particular, their manipulation in demonstrations and their use in the arms traffic, as well as their deprivation of the right to education. In that regard, he called upon the competent United Nations bodies to intervene.

11. He further indicated that the terrorist groups were benefiting from logistic support from the Republic of Albania. Information on that subject was regularly transmitted to the Special Rapporteur on the question of the use of mercenaries and the Special Rapporteur on the human rights situation in the territory of the former Yugoslavia. Those groups were also receiving spontaneous or compulsory contributions from Albanians working abroad or living there on social welfare as false asylum seekers. They were deriving other financial resources from the drug traffic, prostitution, arms smuggling and other criminal activities.

12. Given the fact that the Albanian authorities were not preventing those activities but, in fact, were openly encouraging separatism and terrorism in Kosovo and Metohija, it was of the utmost importance that, in accordance with the relevant resolutions of the Security Council, the international community should condemn the terrorist attacks, provocations, murders and abductions, halt the influx of funds from abroad and take appropriate measures to put an end to the activities of the terrorists who, in reality, far from desiring a peaceful settlement of the conflict were seeking the secession of Kosovo and Metohija at any price.

13. He said that the Republic of Serbia and the Federal Republic of Yugoslavia had made proposals and taken measures, to no avail, in an attempt to solve that internal problem by entering into a constructive dialogue with the political representatives of the national Albanian community. The latter had not responded to the numerous invitations to talks that had been issued by the Serbian President and Government. Moreover, the signature of the 11-point agreement between the President of the Federal Republic of Yugoslavia and the United States Special Envoy, Mr. Richard Holbrooke, which contained principles that could lead to a lasting solution to the conflict, had not prevented them from continuing their terrorist activities.

14. In October 1998, an agreement had been signed between the Government of the Federal Republic of Yugoslavia and the Organization for Security and Cooperation in Europe (OSCE) concerning the OSCE verification mission in Kosovo and Metohija. Cooperation between the States bodies and the OSCE mission had been fruitful and constructive and the Government had guaranteed and ensured security and freedom of movement.

15. The political settlement of the problem of Kosovo and Metohija had been discussed at Pristina and at Belgrade with representatives of various national communities, but the representatives of the Albanian political parties, being advocates of separatism and terrorism, had refused to take part therein. Those discussions had led to the formulation of the Joint Draft Agreement on the Political Framework of Self-Rule in Kosovo and Metohija (CERD/C/364, para. 54) in November 1998.

16. That joint agreement developed and further clarified the Milosevic-Holbrooke Agreement, guaranteed the equality of all the ethnic and national communities and of all the citizens of Kosovo and Metohija and granted them democratic autonomy in which each recognized national community was represented under equitable conditions.

17. A declaration on the Joint Draft Agreement was adopted in November 1998 by the representatives of the national communities and the political parties. The signatories of the declaration felt that the draft agreement constituted an equitable and democratic political solution to the problems being faced in Kosovo and Metohija. They invited all the other political parties in Kosovo and Metohija to endorse the draft and to make known their views and suggestions in order to help to elaborate and implement it.

18. While the Federal Republic of Yugoslavia and the Republic of Serbia were making efforts to institute a meaningful dialogue, the leaders of some Albanian political parties in Kosovo and Metohija were refusing or delaying the dialogue under various pretexts. However, the sanctions imposed on the Federal Republic of Yugoslavia, which were weakening the population and the country as a whole, had been tightened.

19. In accordance with its commitments, the Republic of Serbia had endorsed the principles for a peaceful settlement of the conflict in Kosovo and Metohija which had been adopted by the Contact Group and had taken part in the recent negotiations at Rambouillet, which had been suspended without result. In that regard, his delegation denounced the attitude of the United States and of some members of the Contact Group who were creating confusion concerning

the outcome of those negotiations. It wished to reaffirm that there could be no question of granting independence to Kosovo and Metohija. It was ready to resume talks on the subject of self-rule for that region provided that all the parties involved in the negotiations respected the sovereignty and territorial integrity of the Republic of Serbia and the Federal Republic of Yugoslavia. However, Yugoslavia could under no circumstances accept the presence of foreign armed forces in its territory.

20. In short, he reaffirmed that his Government was prepared to enter into a dialogue concerning the autonomy, but not the secession, of Kosovo and Metohija. He regretted that some influential international factors were helping to support the separatists and expressed doubts concerning the real desire of some of the parties for dialogue.

21. Finally, he called upon the Committee to support the efforts of the Republic of Serbia and the Federal Republic of Yugoslavia to reach a peaceful political agreement based on respect for sovereignty and territorial integrity and granting equal rights to all citizens and to all national communities in Kosovo and Metohija.

22. The CHAIRMAN thanked the delegation of the Federal Republic of Yugoslavia for the information that it had communicated to the Committee, particularly on the agreements that had or had not been concluded concerning the situation in Kosovo and Metohija, and for the additional documents that it had made available to the members of the Committee. He invited Mr. Nobel, the Rapporteur for the country, to present his report on the situation in Kosovo and Metohija.

23. Mr. Yutzis took the Chair.

24. Mr. NOBEL (Rapporteur for Yugoslavia) said that, in its decision 3 (53) on the Federal Republic of Yugoslavia which was adopted in August 1998 during its fifty-third session, the Committee, considering the grave developments in Kosovo and Metohija since the adoption of its concluding observations on 30 March 1998 concerning the report of that country, had requested the Government of the Federal Republic of Yugoslavia to provide it with information about the attempts that had been made to achieve a meaningful dialogue with the Albanian leaders in Kosovo and Metohija which would ensure respect for the internationally recognized human rights. The Committee had called upon the Government and the leadership of the Albanian community in Kosovo and Metohija to stop immediately all military and paramilitary activities or hostilities and to enter into negotiations on a just and lasting solution under which Kosovo and Metohija would be granted the highest level of autonomy in order to eliminate all forms of racial discrimination. The Committee had also referred to its concluding observations of 30 March 1998 concerning the report submitted by Yugoslavia, and to its general recommendation XXI (48) of 8 March 1996, and had taken note of Security Council resolution 1160 (1998).

25. He said that the Committee welcomed the desire of the Government of the Federal Republic of Yugoslavia to maintain dialogue with the Committee in spite of the dramatic situation with which it was faced, since dialogue was particularly important in view of the differences of opinion that probably existed between the Committee and the Government.

26. He then presented a detailed analysis of the report of Yugoslavia. Chapter II, which provided general information on the constitutional and legislative provisions, did not mention any court cases relating to the implementation of the Convention. It stated that Yugoslavia had ratified the Council of Europe's Framework Convention for the Protection of National Minorities, an instrument that was hardly phrased in binding terms and which, in the opinion of some specialists, actually weakened the European Convention on Human Rights.

27. In Chapter III, paragraph 9 more or less summarized the position of Yugoslavia on the situation in Kosovo and Metohija and contained a wealth of figures and statistics concerning freedom of movement, health care and education which were beyond the scope of the Convention. With regard to travel documents, he had been surprised to read in the report (para. 10) that "members of the Albanian national minority are in no way discriminated regarding the exercise of their right to a passport or a visa", bearing in mind the fact that the Albanian delegates to the negotiations held at Rambouillet (France) in February 1999 had been able to obtain their travel documents only at the last moment.

28. Chapter IV contained a blatant indictment of the Albanian separatist opponents, who were accused of separatism, fascism and engagement in the drug traffic and ethnic cleansing. They were allegedly terrorizing their own population, including elderly persons and children, in order to force them to endorse their plans and, to that end, were committing numerous grave violations of human rights. The Republic of Albania was likewise allegedly providing considerable logistic support for Albanian separatism in Kosovo in violation of the national frontiers of Yugoslavia in an attempt to establish a "Greater Albania" and members of Islamic and other international terrorist organizations had allegedly joined the ranks of the rebels (paras. 37-39). Finally, it was alleged that the Kosovo Liberation Army was financed through contributions exacted from the Albanian community abroad and through the drug traffic and prostitution.

29. He was aware that the Albanians in Kosovo and Metohija were committing grave violations of human rights. However, he was struck by the veritable indictment drawn up against the Albanians and the absence of any information concerning the violations committed by the police and the military forces of the Federal Republic of Yugoslavia, which resulted in a one-sided report.

30. On examining chapter V, the only one containing information that responded to the Committee's request in its decision 3 (53), he would like to know why it was the President of the Republic of Serbia and not the Government of the Federal Republic of Yugoslavia who had proposed a meaningful dialogue to the political representatives of the Albanian community in Kosovo and

Metohija (paras. 43-61). Why was the term "Kosovo-Albanian leadership", which was employed in the Committee's decision, not used to designate the Albanian party?

31. He said that, although the expression "national community" was often used in the report (paras. 43, 44, 49 and 54), none of the various agreements that had been concluded on the situation in Kosovo and Metohija, including the Holbrooke-Milosevic Agreement and the Agreement between the Federal Republic of Yugoslavia and the Organization for Security and Cooperation in Europe (OSCE), had been signed by leaders of the Albanians in Kosovo and Metohija. However, a declaration on the Joint Draft Agreement on the Political Framework of Self-Rule in Kosovo and Metohija had been signed on 25 November 1998 by the Republic of Serbia and representatives of the Gorançi, Egyptian, Muslim, Romany, Turkish and other communities in Kosovo and Metohija (para. 58). It would be useful to know who those communities were and whether they expressed the political aspirations of the people and leaders of Kosovo and Metohija.

32. Quoting information provided by the Minority Rights Group International, he drew attention to the manner in which the Albanian leaders had moved from a moderate and essentially non-violent claim expressed by the Democratic League of Kosovo to a harder attitude manifested by the establishment of the Kosovo Liberation Army (KLA), which had been constantly increasing its manpower and its means since its creation in 1996. They had also established the Parliamentary Party of Kosovo, whose hardline president, Adem Demaçi, had withdrawn from the Rambouillet negotiations, thereby giving hope for a lasting solution to the problem of Kosovo and Metohija.

33. The report of Yugoslavia was not encouraging since it did not admit the slightest fault on the part of the Yugoslav State, nor did it in any way take into consideration the deep-seated causes of the conflict, such as the economic and social underdevelopment of Kosovo and Metohija, the disregard shown for the economic, social and cultural rights of the Kosovo Albanians, the atrocities committed in the past, the historical mistrust between the parties, the limitation of the region's autonomy in 1989 and the warrior mythology that was being maintained by the Serbian leaders.

34. He continued his analysis of the overall human rights situation in Kosovo and Metohija in the light of other sources. According to the Department of State of the United States of America, the Yugoslav Government's record in the field of human rights remained disastrous. Extrajudicial executions, torture, acts of physical violence, arrests and other arbitrary measures were continuing, the police and governmental forces being responsible for most of the violations against members of the Albanian community and minority groups, particularly the Muslims of Sandzak, detainees and citizens protesting against the Government's policy. Peaceful demonstrations were severely repressed, the media were tightly controlled and the independence of the judiciary was flouted. Finally, citizens had no right to change their political leaders.

35. According to Amnesty International, the police and military forces had considerably intensified their activities in the areas of operations of the Kosovo Liberation Army (KLA), which was also allegedly committing numerous violations of human rights. Hundreds of persons were said to have been

victims of extrajudicial executions and 25 unarmed civilians had allegedly been killed since the beginning of 1999 by individuals of Albanian origin. There were numerous enforced disappearances, extrajudicial executions and acts of violence against women. During their confrontations, such as that which took place at Orahovac, the KLA and government troops did not hesitate to blindly execute hundreds of non-combatant civilians. The KLA, which was said to control about 40 per cent of the territory of Kosovo and Metohija, had allegedly abducted about 100 Serbian civilians in Kosovo.

36. According to information published in January 1999 by the Field Operations Department of the Office of the High Commissioner for Human Rights, the situation was worsening as there had been a further escalation in violations between November 1998 and January 1999. The Government had taken measures that had affected the freedom of the media, freedom of association and the legal protection activities that were being supervised by the Office of the High Commissioner. Diplomatic efforts were deadlocked, partly due to the question of the participation of the KLA in the negotiations. The inhabitants of Kosovo and Metohija still did not know which executive, administrative and judicial institutions would be responsible for ensuring the protection of human rights and economic and social rights in their region since the entire existing administrative system needed to be thoroughly restructured. The fact that, for the moment, they were being administered by provisional institutions was creating a situation of anxious uncertainty which, in turn, was giving rise to an atmosphere conducive to further violations of human rights notwithstanding the Milosevic-Holbrooke Agreement of 16 October 1998 under which an OSCE verification mission was established in Kosovo.

37. Most of the acts of violence were continuing, without being widely reported, and the safe zones had diminished, thereby exposing more persons to arbitrary violence and ill-treatment. Acts of aggression were being committed not only against community leaders who were open to dialogue but also against individuals chosen at random and abductions and hostage-taking were also continuing.

38. He went on to say that, according to the impressive report of the Centre for Humanitarian Law at Belgrade for the year 1998, there had been a serious deterioration in the human rights situation in the Federal Republic of Yugoslavia in 1998. About 2,000 persons, most of whom were civilians of Albanian origin, had been killed in Kosovo in 1998 and enforced disappearances constituted a typical violation of human rights. The Centre had recorded about 500 cases of torture or cruel, inhuman or degrading treatment inflicted by the police forces which had not been investigated or punished. The report also referred to violations of the right to a fair hearing and to freedom of expression.

39. According to a report of the Office of the United Nations High Commissioner for Refugees, on 26 May 1998 the Serbian Parliament had promulgated an enactment which, in effect, abolished the autonomy of the universities. On 8 December 1998, hundreds of students from the faculties of philology, law and engineering had demonstrated against that enactment at Belgrade and the leaders of that movement had been arrested on 15 December.

The Human Rights Watch report for 1998, entitled "Detentions and human rights violations in Kosovo", corroborated the other aforementioned governmental, non-governmental, national and international reports.

40. He informed the members of the Committee that the secretariat had received a letter dated 26 January 1999 from the Chairman of the Helsinki Committee for Human Rights concerning the social, economic and cultural difficulties encountered by the Bulgarian community in Yugoslavia, particularly in the frontier zone between Bulgaria and the Federal Republic of Yugoslavia. That letter, which was substantiated by numerous articles, claimed that the Bulgarian minority had considerably diminished and currently comprised only about 25,000 persons.

41. With regard to the situation of the refugees, he quoted a document of the Office of the United Nations High Commissioner for Refugees (UNHCR) dated 17 June 1998 which estimated the number of refugees in the Federal Republic of Yugoslavia at more than half a million of whom 52,900 had been displaced within Kosovo, 13,400 had been displaced from Kosovo to Montenegro and 10,000 others had sought refuge in Albania. According to UNHCR, the economic situation in the country no longer enabled the authorities to meet the most basic needs of those persons.

42. He also pointed out that, on 12 February last, the Council of Europe, the Organization for Security and Cooperation in Europe and United Nations bodies had held a high-level tripartite meeting at Strasbourg during which UNHCR reported that, from December 1998 to January 1999, about 45,000 persons from Kosovo, including 1,500 ethnic Serbs from 90 villages in central and western Kosovo, had been displaced due to the fighting. UNHCR expressed the view that, although 125,000 persons who had been displaced within the Federal Republic of Yugoslavia had been able to return home since October 1998, the tension remained high. The deliberate attacks on civilians, the detention of about 1,500 Albanians from Kosovo by the Yugoslav authorities due to their supposed links with the Kosovo Liberation Army (KLA) and the abduction of 150 persons, mainly Serbs, by the KLA had heightened the ethnic tension.

43. According to the UNHCR report, more than 315,000 inhabitants of Kosovo had been forced to leave their homes. Of those, 210,000 were still in Kosovo, 20,000 were in the Republic of Serbia, 25,000 were in Montenegro, 18,500 were in Albania, 3,000 were in the former Yugoslav Republic of Macedonia and 8,000 were in Bosnia and Herzegovina, while more than 8,000 Albanians from Kosovo had sought refuge in European countries.

44. In a report submitted to the Security Council in January 1999 on the situation in Kosovo (S/1999/99), the Secretary-General of the United Nations had said that he was "increasingly concerned that the spread of violence and the nature of the attacks could lead to a situation of all-out civil war in Kosovo" (para. 35).

45. In that document, the Secretary-General had referred to the massacre that took place in the village of Racak near Stimlje and said that: "On 15 January, the Serb police and, as indicated in some reports, paramilitary units entered Racak. On 16 January, the Kosovo Verification Mission reported that the bodies of 45 Kosovo civilians, including three women, at least one

child and several elderly men, were found, 11 in houses, 23 on a rise behind the village and others in various locations in the immediate vicinity of the village. Many of the dead appeared to have been summarily executed, shot at close range in the head and neck." He had added: "However, investigative and forensic efforts in the wake of this massacre have been wilfully obstructed by the lack of cooperation by the authorities of the Federal Republic of Yugoslavia with the international community" (S/1999/99, para. 12).

46. In a press release issued at Prague on 16 January last, Mr. Jiri Dienstbier, Special Rapporteur of the United Nations on the human rights situation in Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia, referring to the mass murders at Racak, said that: "Keeping people in a state of fear does not promote democracy, human rights or an end to violence. I urge all parties to the conflict to have the courage to abandon the practice." That statement led Mr. Nobel to believe that it was possibly the tragedy at Racak that had made it possible to hold the negotiations at Rambouillet in February 1999, particularly in view of the shock wave that that incident caused throughout the world.

47. Mr. Aboul-Nasr resumed the Chair.

48. Mr. DIACONU said that an examination of the legislation of the Federal Republic of Yugoslavia would undoubtedly show the existence of texts concerning the protection of persons belonging to minorities. However, the problem was that, when considering the situation in Kosovo, it was difficult to merely assess the extent to which the provisions of the Convention were being implemented and to speak of racial non-discrimination in all its aspects. In that specific case, thought should be given to the future and action should be taken to limit the violations of the most basic rights of human beings - the right to life, liberty and security of person and the right to choose one's place of residence within a State - and to prevent population displacements wherever possible. Furthermore, in order to settle that conflict, it was essential to ensure that the persons responsible for such violations did not enjoy impunity and were brought to justice. Care should also be taken to ensure that the provisions of international humanitarian law, including the Optional Protocols to the Geneva Conventions of 1949, were respected.

49. If that conflict persisted, in a few years' time one might be faced with a depopulated territory, although it had to be admitted that, at the present time, it was difficult to predict the future political status of Kosovo. That would have to await the resumption of the negotiations on 15 March next, in the hope that a solution would be found and accepted by all the parties concerned. It was evident that neither violence and the mass destruction of villages nor terrorism and separatist aims constituted a solution. In that regard, the Committee had never supported separatist movements.

50. He wondered why the periodic report under consideration stated that "members of the Albanian national minority in Kosovo and Metohija abandoned the regular State education system of their own free will" (para. 14) while subsequently acknowledging that "even after that, State-run elementary and secondary schools were not closed". How many pupils had continued to receive instruction in Albanian in the State-run schools in Kosovo and Metohija? In

the Djakovica region of Kosovo and Metohija, how could "pupils members of the Albanian national minority have been regularly attending elementary school classes in Albanian" (para. 15)? How could the situation differ from one region to another?

51. However, he believed that many aspects of the 11-point Milosevic-Holbrooke Agreement referred to in paragraph 51 of the report merited special attention: organization of free and fair elections to be overseen by OSCE, enjoyment of additional rights by the national minorities in order to preserve and express their national, cultural, religious and linguistic identity, establishment of local police under the control of the municipal authorities and the principle that no one would be prosecuted for crimes committed in connection with the clashes in Kosovo and Metohija except for crimes against humanity and international law.

52. Mr. van BOVEN pointed out that, in 1998, the Committee had expressed the opinion that a solution for Kosovo and Metohija should include "a status of the highest level of autonomy as a means for everyone to enjoy their human rights" (A/53/18, para. 209), even though, as attested by its recommendation 21 of 8 March 1996, it was not in favour of separatism or secession.

53. The report under consideration was not encouraging, since it held one of the parties to the conflict responsible for all the ills. That was not a good basis on which to seek a political solution. He regarded those violations of international humanitarian law as grave and also said that he was deeply concerned at the fact that Mrs. Louise Arbor, Prosecutor of the International Criminal Tribunal for the former Yugoslavia, had not been permitted to enter the Federal Republic of Yugoslavia last January in spite of the Committee's recommendations to that effect. It was regrettable that the authorities of the Federal Republic of Yugoslavia had still not allowed her or her associates to enter the country. That fact was particularly regrettable in view of the endeavours that were being made to combat impunity and he hoped that the authorities would review their position on that question.

54. He requested the Yugoslav delegation to give more precise details concerning the representativity of the national communities such as the Turks, the Gorancis, the Muslims, the Romanies and the Egyptians (para. 58). He would also like to know more about the practice of confiscating passports. Finally, he wished to know under what circumstances and for what reasons the circulation of a major newspaper had been banned on 16 December last.

55. Mr. RECHETOV said that he was pleased that the Federal Republic of Yugoslavia had been able to send a delegation to Geneva to present its report in spite of the country's current difficult situation. Like the Rapporteur and Mr. van Boven, he thought that the report should have referred to the situation in the field in a more balanced manner. When such tragedies occurred, a single party to the conflict could not be held entirely responsible.

56. However, he regretted that Mr. Nobel had made no mention of the good offices mission which the Committee had sent to the country a few years earlier and which, in fact, had enabled the Committee to obtain a better

understanding of the situation and to formulate appropriate recommendations. As a member of that mission, he had been struck by the fact that the entire population of Kosovo was boycotting political activity in the country. According to Mr. Nobel, the population's frustration had degenerated into armed conflict. But was that really a solution? The fact that an entire population was refusing to register and vote in legislative and local elections would inevitably entail forceful intervention.

57. Like Mr. Diaconu, he wished to have information concerning the education of the national minorities. While thanking Mr. Nobel for referring to the various ethnic groups living in Kosovo, he said that, a few decades earlier, the Albanian community had formed less than 40 per cent of the population of that region in which it currently constituted a proportion of 80 to 90 per cent. How would that affect the Serbs and other communities in Kosovo?

58. Although mention had been made of numerous violations of human rights and of international humanitarian law, nothing had been said about violations of the right to territorial integrity. The Committee should endeavour to emphasize, in its recommendations, that the rights of all the ethnic groups in the region should be guaranteed with due respect for the territorial integrity of the Federal Republic of Yugoslavia.

59. Mr. GARVALOV said that he had listened with great interest to the explanations given by the delegation of the Federal Republic of Yugoslavia concerning the current situation in that country and had followed closely the account given by the Special Rapporteur. For the moment, he would refrain from commenting on some problems mentioned by the latter, particularly the question of the Bulgarian minority with which he was particularly concerned, because it was his understanding that the discussion was supposed to focus on the follow-up on decision 3 (53) taken by the Committee last August. However, he hoped that the question of the minorities would be addressed once again when the Committee considered the country's periodic report.

60. Accordingly, for the moment, he would merely comment on the situation in Kosovo. The Committee had been right to address that problem since the grave and persistent violations of human rights that were being committed in Kosovo and Metohija affected the basic rights recognized in the International Convention on the Elimination of All Forms of Racial Discrimination.

61. Unfortunately, at the present time, the question was no longer posed solely in terms of violations of human rights; it had assumed the dimensions of a major political crisis that was threatening the stability of the entire region. To avoid a civil war, common sense indicated that the parties concerned should endeavour to find a peaceful, just and equitable solution to the conflict by showing goodwill on both sides. It was regrettable that they currently had greatly differing concepts of what would constitute an equitable solution since the Serbs wanted to retain as an integral part of their territory a province that was now demanding its independence.

62. During its good offices mission in Yugoslavia in 1993, the Committee had probably missed a good opportunity to reconcile the viewpoints of the parties and the international community's scope for manoeuvre had now become very narrow. Although the right of peoples to self-determination was recognized in

Article 1 of the Charter of the United Nations and in articles 1 and 2 of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, that did not authorize a people to secede unilaterally as the Committee had explicitly pointed out in paragraph 11 of the general recommendation XXI that it had adopted at its forty-eighth session in 1996.

63. However, in its decision 3 (53), the Committee had recommended that "the highest level of autonomy" be granted to Kosovo even if that province remained under the jurisdiction of Serbia which, at all events, was not contested by any international body or any organ of the United Nations.

64. Any solution to the problem of Kosovo would have repercussions on neighbouring countries and adoption of the military option might destabilize the entire European region. It was essential, therefore, that the parties to the conflict should put aside their bitterness and their mistrust and participate actively in the quest for a peaceful settlement.

65. Mr. de GOUTTES said that he too had followed the explanations of the Yugoslav delegation and the Rapporteur very closely.

66. He fully shared the viewpoint of the previous speakers and thanked Mr. Rechetov for referring to the Committee's good offices mission which, unfortunately, had produced no results. He agreed with him that the report under consideration (CERD/C/364) was too unbalanced and tended to cast the blame on only one of the parties to the conflict. As the Chairman had rightly emphasized, the Committee, which sometimes engaged in a very meticulous examination of the situation in a country where there was no real problem of racial discrimination, often found itself at a loss when it was faced with a grave crisis in which one or other minor aspect of the implementation of the Convention was no longer really relevant.

67. Although the situation in Kosovo and Metohija could indeed be regarded as a grave crisis, it also obviously constituted a case of racial and ethnic discrimination which fell fully within the framework of the Committee's mandate. Hence, in keeping with decision 3 (53) taken by the Committee at its session last August, he wished to ask the Yugoslav delegation what specific attempts had been made to establish a meaningful dialogue with the Albanian leaders in Kosovo and, in particular, what progress had been made in regard to the granting to that province of the "highest level of autonomy" that had been regarded as a basis for negotiations to reach a just and lasting solution.

68. Mrs. McDOUGALL said that many of the points that she intended to raise had already been addressed by the Rapporteur and other speakers.

69. However, she wished to highlight the conditions in which the humanitarian organizations were working in Kosovo. Several international human rights organizations had indicated that the Government of the Federal Republic of Yugoslavia was preventing them from rendering assistance to the approximately 250,000 persons who had been displaced in that province. For example, one of their reports referred to attacks on members of the Mother Theresa Association in July and August of the preceding year. The authorities also seemed to be restricting access by humanitarian aid

organizations to some zones. As a result, the International Committee of the Red Cross had apparently been prevented for a whole month from visiting a site and eight UNHCR trucks transporting one month's food for 30,000 persons had apparently been turned back at a checkpoint.

70. Moreover, according to a recent report by Physicians for Human Rights, physicians and health workers who had come to care for the wounded had been arrested and subsequently killed by Serbian government forces. Physicians of Albanian origin, in particular, had been the target of acts of intimidation including imprisonment, torture and even enforced disappearance and murder as attested by several press communiqués. That was only one of many examples of the manner in which the basic rights of the Albanians of Kosovo were being flouted. Access to medical care should, in effect, be guaranteed to all, including civilians and military personnel.

71. Mr. SHERIFIS said that recognition should be given to the goodwill that the Government of the Federal Republic of Yugoslavia had shown by sending a large delegation to present a detailed report to the Committee.

72. Tribute should also be paid to the objectivity of the Rapporteur, who had analysed the situation in a highly competent manner.

73. Since everything, or almost everything, had now been said on that question, he merely wanted to return to some points that he wished to highlight.

74. As the Committee had already emphasized in its decision 3 (53) of August 1998, a peaceful solution to the problem of Kosovo could be achieved only by granting broad autonomy to that province with due respect for the territorial integrity of Serbia. That solution should also be in conformity with the international human rights instruments and should therefore take account, in particular, of the rights of all the displaced persons in the province, regardless of their origin. All those persons should be able to return to their homes, failing which they should be granted fair compensation. He referred to the recommendation that the Committee had made in that regard.

75. He noted that neither the 1996 Memorandum of Understanding on education, which had been signed by President Milosevic in person, nor the March 1998 Agreement on the same subject had ever been implemented. However, everyone knew that education was a very important aspect of the enjoyment of human rights.

76. He echoed the hope expressed by previous speakers that a peaceful solution would be found in the next few days during the resumption of the negotiations at Rambouillet.

77. The CHAIRMAN, speaking in his capacity as a member of the Committee, endorsed the comments of Mr. Sherifis and added that all the displaced persons should not only be able to return to their homes or obtain fair compensation but should also be able to choose between those two solutions.

78. In his capacity as Chairman, he invited the Yugoslav delegation to reply to the questions and comments of the members of the Committee.

79. Mr. DJORDJEVIC (Yugoslavia) said that his delegation had listened attentively to the comments of the members of the Committee and wished to thank the Rapporteur for his excellent presentation.

80. The problem of Kosovo and Metohija was complex and had given rise to many erroneous interpretations. For example, in that connection, reference was often made to "armed conflict", which implied that the provisions of the conventions concerning the law of war were applicable in that regard. However, in the eyes of the Serbs, there was no armed conflict since the Kosovo Liberation Army was neither more nor less than a terrorist organization which, consequently, deprived the International Criminal Tribunal of all jurisdiction.

81. With regard to the efforts to establish a dialogue, he pointed out that, although the Government of Serbia had invited the representatives and leaders of the Albanian political parties to the negotiating table on 18 occasions, they had not come. When the negotiations began at Rambouillet, 11 basic principles had been defined with Mr. Richard Holbrooke, the Special Envoy, including the principle of the territorial integrity of Serbia. The Albanians had rejected that principle and wanted not only a referendum on self-determination within three years but also the deployment of NATO forces on the ground. It was they who were now no longer satisfied with "the highest level of autonomy".

82. After making those few preliminary comments, the Yugoslav delegation offered to provide more detailed replies at the next meeting.

83. The CHAIRMAN, speaking in his capacity as a member of the Committee, took due note of the fact that the Yugoslav delegation did not consider the problem of Kosovo and Metohija as an "armed conflict". In that case, he wished to know how that situation could be described.

84. In the case in question, he felt that it was important that all the parties concerned should enjoy humanitarian treatment and that the conflict should finally be brought to an end. However, if, in that type of situation, one of the parties described the other as terrorists, there could be no further talk of humanitarian law.

85. Finally, he hoped that the Yugoslav delegation would reply to the Committee on two specific questions: what were the prospects and what could be hoped for?

86. In his capacity as Chairman, he invited the Yugoslav delegation to conclude the consideration of the situation in Kosovo and Metohija at the next meeting.

The meeting rose at 1 p.m.